

## § 301.93-6

hearing will be adopted by the Administrator.

(Approved by the Office of Management and Budget under control number 0579-0088)

[58 FR 8521, Feb. 16, 1993, as amended at 59 FR 67609, Dec. 30, 1994; 66 FR 21053, Apr. 27, 2001]

### § 301.93-6 Compliance agreements and cancellation.

(a) Any person engaged in growing, handling, or moving regulated articles may enter into a compliance agreement to facilitate the interstate movement of regulated articles under this subpart.<sup>5</sup>

(b) Any compliance agreement may be canceled orally or in writing by an inspector whenever the inspector finds that the person who has entered into the compliance agreement has failed to comply with this subpart. If the cancellation is oral, the cancellation and the reasons for the cancellation will be confirmed in writing as promptly as circumstances allow. Any person whose compliance agreement has been canceled may appeal the decision, in writing, within 10 days after receiving written notification of the cancellation. The appeal must state all of the facts and reasons upon which the person relies to show that the compliance agreement was wrongfully canceled. As promptly as circumstances allow, the Administrator will grant or deny the appeal, in writing, stating the reasons for the decision. A hearing will be held to resolve any conflict as to any material fact. Rules of practice concerning a hearing shall be adopted by the Administrator.

[58 FR 8521, Feb. 16, 1993, as amended at 59 FR 67609, Dec. 30, 1994]

### § 301.93-7 Assembly and inspection of regulated articles.

(a) Any person (other than a person authorized to issue certificates or lim-

<sup>5</sup>Compliance agreement forms are available without charge from the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Domestic and Emergency Operations, 4700 River Road Unit 134, Riverdale, Maryland 20737-1236, and from local offices of the Animal and Plant Health Inspection Service, which are listed in telephone directories.

## 7 CFR Ch. III (1-1-07 Edition)

ited permits under § 301.93-5(c)), who desires to move a regulated article interstate accompanied by a certificate or limited permit must notify an inspector<sup>6</sup> as far in advance of the desired interstate movement as possible (but no less than 48 hours before the desired interstate movement).

(b) The regulated article must be assembled at the place and in the manner the inspector designates as necessary to comply with this subpart.

### § 301.93-8 Attachment and disposition of certificates and limited permits.

(a) A certificate or limited permit required for the interstate movement of a regulated article, at all times during the interstate movement, must be attached to the outside of the container containing the regulated article, attached to the regulated article itself if not in a container, or attached to the consignee's copy of the accompanying waybill: *Provided however*, That the requirements of this section may be met by attaching the certificate or limited permit to the consignee's copy of the waybill only if the regulated article is sufficiently described on the certificate, limited permit, or waybill to identify the regulated article.

(b) The certificate or limited permit for the interstate movement of a regulated article must be furnished by the carrier to the consignee at the destination of the regulated article.

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### § 301.93-9 Costs and charges.

The services of the inspector during normal business hours (8 a.m. to 4:30 p.m., Monday through Friday, except holidays) will be furnished without cost. The user will be responsible for all costs and charges arising from inspection and other services provided outside of normal business hours.

### § 301.93-10 Treatments.

Treatment schedules listed in part 305 of this chapter to destroy the Oriental fruit fly are approved for use on

<sup>6</sup>See footnote 3 at § 301.93-5(a).

regulated articles. The following treatments can be used for bell pepper, citrus and grape, tomato, premises, and soil:

(a) *Fruits and vegetables*<sup>7</sup>—(1) *Bell Pepper*—(i) *Vapor Heat*. Heat by saturated water vapor at 44.4 °C. (112 °F.) until approximate center of bell pepper reaches 44.4 °C (112 °F.). Maintain at 44.4 °C. (112 °F.) for 8¾ hours, then immediately cool.

(2) *Citrus and grapes*—(i) *Fumigation plus refrigeration*. Fumigate at normal atmospheric pressure (chamber or tarpaulin, load not to exceed 80%) with 32 g/m<sup>3</sup> methyl bromide at 21 °C. (70 °F.) or above, minimum gas concentrations 25 g/m<sup>3</sup> at ½ hour, 18 g/m<sup>3</sup> at 2 or 2½ hours, 17 g/m<sup>3</sup> at 3 hours. Fumigate for a minimum of 2 hours. Then, aerate fruit at least 2 hours before refrigeration (but begin refrigeration no more than 24 hours after fumigation is completed). Refrigerate based upon fumigation exposure time listed in the table below:

Fumigation exposure time	Refrigeration	
	Days	Temperature
2 hours .....	4	0.55–2.7 °C. (33–37 °F.)
	11	3.33–8.3 °C. (38–47 °F.)
2½ hours .....	4	1.11–4.44 °C. (34–40 °F.)
	6	5.0–8.33 °C. (41–47 °F.)
3 hours .....	10	8.88–13.33 °C. (48–56 °F.)
	3	6.11–8.33 °C. (43–47 °F.)
	6	9.88–13.33 °C. (48–56 °F.)

(ii) *Refrigeration plus fumigation*. Refrigerate for 21 days at 0.55 °C. (33 °F.) or below, then fumigate at normal atmospheric pressure (chamber or tarpaulin, load not to exceed 80%) with—

(A) 48 g/m<sup>3</sup> (3 lb/1000 ft<sup>3</sup>) methyl bromide for 2 hours at 4.5 °C. (40–59 °F.), minimum gas concentration 44 g/m<sup>3</sup> at ½ hour, 36 g/m<sup>3</sup> at 2 hours; or

(B) 40 g/m<sup>3</sup> (2½ lb/1000 ft<sup>3</sup>) methyl bromide for 2 hours at 15.5–20.5 °C. (60–69 °F.), minimum gas concentration 36 g/m<sup>3</sup> at ½ hour, 28 g/m<sup>3</sup> at 2 hours; or

(C) 32 g/m<sup>3</sup> (2 lb/1000 ft<sup>3</sup>) methyl bromide for 2 hours at 21–26 °C. (70–79 °F.), minimum gas concentration 30 g/m<sup>3</sup> at ½ hour, 25 g/m<sup>3</sup> at 2 hours.

<sup>7</sup>Some varieties of fruit may be injured by approved treatments. The USDA is not liable for damages caused by this quarantine. Commodities should be tested by the shipper to determine each commodity's tolerance before commercial shipments are attempted.

(3) *Tomato*—(i) *Fumigation*. Fumigate with methyl bromide at normal atmospheric pressure (chamber or tarpaulin, load not to exceed 80%) with 32g/m<sup>3</sup> (2 lb/1000 ft<sup>3</sup>) for 3½ hours at 21 °C. (70 °F.) or above, minimum gas concentration 26 g/m<sup>3</sup> at ½ hour, 14 g/m<sup>3</sup> at 4 hours.

(ii) *Vapor heat*. Heat by saturated water vapor at 44.4 °C. (112 °F.) until approximate center of tomato reaches 44.4 °C. (112 °F.). Maintain at 44.4 °C. (112 °F.) for 8¾ hours, then immediately cool.

(b) *Premises*. A field, grove, or area that is located within the quarantined area but outside the infested core area, and that produces regulated articles, must receive regular treatments with either malathion or spinosad bait spray. These treatments must take place at 6-to 10-day intervals, starting a sufficient time before harvest (but not less than 30 days before harvest) to allow for completion of egg and larvae development of the Oriental fruit fly. Determination of the time period must be based on the day degrees model for the Oriental fruit fly. Once treatment has begun, it must continue through the harvest period. The malathion bait spray treatment must be applied by aircraft or ground equipment at a rate of 2.4 oz technical grade malathion and 9.6 oz of protein hydrolysate per acre. The spinosad bait spray treatment must be applied by aircraft or ground equipment at a rate of 0.01 oz of a USDA-approved spinosad formulation and 48 oz of protein hydrolysate per acre. For ground applications, the mixture may be diluted with water to improve coverage.

(c) *Soil*. Soil within the drip area of plants which are producing or have produced the fruits, nuts, vegetables, and berries listed in §301.93-2(a) of this subpart: Apply diazinon at the rate of 5 pounds active ingredient per acre to the soil within the drip area with sufficient water to wet the soil to at least a depth of ½ inch. Both immersion and pour-on treatment procedures are also acceptable.

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